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AUTHOR	Teitelbaum, Vivien Stewart
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ABSTRACT

This presentation discusses information that resulted from a conference on school record keeping. Several of the principles recommended by the conference report are: (1) no information should be collected about students without the informed consent of parents and, in some cases, the student; (2) only the highly stable information collected should appear on the permanent record card; (3) schools should establish procedures to verify the accuracy of all data maintained in their student records; (4) parents should have full access to and the right to challenge the accuracy of data on their children; and (5) no agency or persons other than the parent or school personnel who deal directly with the student concerned should have access to student data without parental or pupil permission, except in the case of a subpoena. This paper discusses some of the reasons why these principles were thought necessary, with one general reason being that counselors wanted and needed both a codification of the knowledge base of their profession and an aid to ethical practice. (TA)

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Guidelines for Student Records: An Approach to the Problem of Privacy

Vivien Stewart Teitelbaum
Russell Sage Foundation

I'd like to talk this morning about one attempt to come to terms with the problem of personal dossiers and privacy and actually do something about it. Although horror stories about dossiers of the 1984 genre tend to focus on credit companies, army surveillance of civilians and the like, I would like to talk about another kind of record that I consider equally important, namely, the school pupil record. All of us have to go to school, all of our children have to go to school and in some states school records are kept for up to fifty years beyond high school graduation. A tremendous amount of information is kept in these records and the person the record is about rarely knows what it contains. We all therefore have a personal interest in the problem. Moreover, the principles I will discuss for handling school records have more general application and might well prove useful to other kinds of personal record keeping such as in industry, hospitals, clinics, mental health centers, social work agencies, universities and so on. As behavioral scientists workingin any of these fields, therefore, we have a professional interest in the problem, for it is often we who determine what kinds of information are collected or we who keep the records or we who do research using them.

Today I intend to discuss briefly the issues that led Russell Sage Foundation to convene its conference on school record keeping, the principles advocated by the report of the conference and the reaction to this report of school principals, counselors, psychiatrists, researchers and parents. The proper use of personal files involves a delicate balancing

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of competing values often held by different interest groups and I think the reactions of these groups have to be understood in order to bring about intelligent change in this area.

Record keeping, in one form or another, is central to any educational system since it records the changes that may be attributed, at least in part, to the teaching-learning experience. Effective teaching, no matter how informal, requires that the teacher have some idea of what his pupil knows and does not know and how quickly he is able to grasp new ideas or acquire new skills. However, the type of records kept varies greatly and closely reflects the nature of the specific educational process. In the early nineteenth century when schools were small and curricula simple, records typically consisted of attendance notes and examination grades only. As such they were used primarily for accounting and school planning purposes. Since then schools have grown enormously in size and complexity in response to many different forces among which the demands of a technological economy rank high. Educational objectives too have broadened. No longer do schools merely provide instruction: they are now responsible to society for identifying and fostering ability, overcoming deficiencies of all kinds and maximizing personal growth in general.

In order to do this the school needs a great deal of information to find out why a particular student isn't learning and what the school can do to help him or her learn more. One of the tools developed for these tasks was the technology of standardized testing, a technology that is more highly-developed here than in any other country in the world. This rapidly-growing and increasingly sophisticated technology in turn encouraged the collection of more information. In addition, the conclusions of social science research over the last forty years pointed

conclusively to the importance of the home environment as a factor affecting the success or failure of a child in the present school system. As a result of all these factors school records today are complex, containing batteries of aptitude achievement and often personality tests, counselor's observations and reports from nonschool agencies, often including social work reports on the family and psychiatric evaluations of the child. They are used less for accounting and school planning purposes (as the nineteenth century records were) and more for guiding students in their educational and career choices.

This rapid growth of information in school files was one of the considerations that led to the conference on record keeping in schools. Another was the dramatic advent of the computer into schools. No one can sensibly deny the advantages of the computer. Computer technology brought enormous gains for man in the fields of science and industry. It accelerated the development of almost all the sciences and allowed large-scale industry and government to become increasingly efficient. Yet the same properties of the computer that have made it such a boon to man also pose a potential threat to individual privacy that is only now becoming widely recognized. The computer's ability to record large amounts of information accurately, to maintain it permanently in a centralized fashion, to retrieve it within minutes and to communicate it widely and instantly renders the individual powerless in the face of, for example, credit agencies or government bureaucracies. Computerization of school records has already occurred in some states and will undoubtedly become well-nigh universal in the 1970's. While contributing enormously to the school's efficiency such a development brings with it the possibility that the mistakes

of youth (real or alleged) will be indelibly recorded to haunt the individual for the rest of his life. In addition, while the computer immeasurably increases our capacity for accurate recall, routine errors of judgment and transcription can still cause widespread harm [anecdotal example -- medical college application].

I don't wish to dwell at length on the subject of computerization. The principles and procedures of record keeping dealt with in this paper apply equally to manual or computerized files and indeed, even in computerized organizations, large amounts of information remain in manual files. However, impending extensive computerization does lend an urgency to these issues.

Principals, counselors and teachers have not been insensitive to the dangers inherent in the accumulations of sociological and psychological information on students. A variety of procedures, both formal and informal, have been developed in an attempt to reconcile the conflicting claims of the society's right to information and the students' right to privacy. However, such policies are usually unsystematic and frequently ambiguous at best. The result is that requests for information from third parties are dealt with on a largely ad hoc basis. Not only does this place enormous burdens on principals and counselors, who are constantly forced to make hurried decisions on extremely subtle and complex issues, but the student's right to privacy is potentially endangered.

For example, a 1970 survey of 160 school districts in Pennsylvania by Barone revealed that only 46 districts had a written policy defining the maintenance and release of student information and of the others, only 12 indicated that they had a verbal agreement. Of 54 school

districts questioned in 1968 by Goslin and Bordier as to who generally has access to their entire pupil record files, 43 districts replied that they allow teachers to see all files, 31 districts also made such records available to the school nurse, 29 open their entire files to FBI and CIA officials, 23 give records (without subpoena) to the juvenile courts and 18 to local police. In contrast, only 8 districts allowed parents access to their child's file and a mere 5 afforded students that right. Moreover, from Barone's survey we learn that over half of the school districts in the Pennsylvania sample give out such information over the telephone.

Thus pupils and parents typically have little or, at best, incomplete knowledge of what information about them is contained in school records and what use is made of this information by the school. Moreover, the secrecy with which school records usually are maintained makes difficult any systematic assessments of the accuracy of information contained in them. Formal procedures permitting parental or pupil challenges of allegedly erroneous information usually do not exist. Thus, for example, an unverified allegation of misconduct could easily become part of a pupil's permanent record.

Against the background of these concerns, Russell Sage Foundation convened a conference in 1969 to discuss the problem of pupil record keeping. Difficult ethical and legal questions surround this whole area, but the essence of the problem can be summarized as follows:

- What kinds of information about pupils should be maintained in schools?
- Who should have access to it?

These two questions were addressed by a group of educators, lawyers, and social scientists at the conference. The

answers to such questions involve establishing criteria for assessing the necessity and relevance of certain information to schools, elucidating the information-gathering rights of public as opposed to private groups and setting these against the widely-held value that it is a basic right of individuals to decide to whom and under what conditions they will make available to others information about themselves.

The report of the conference argued that the present lack of clearly defined and systematically implemented policies regarding uses of information about pupils allows possible intrusions on the privacy of pupils and their parents. It did not argue that such intrusions occur in all or, indeed, even in very many cases. Briefly, the report recommended the following principles:

1) No information should be collected about students without the informed consent of parents and, in some cases, the child. The report went on to discuss those conditions under which individual consent was necessary to satisfy this principle and those under which representational consent (for instance from the Board of Education) would suffice.

2) The total set of student personnel data extant in a school at a given time ranges from tentative uncorroborated reports on alleged student behavior to highly stable information. Only this highly stable basic minimum of data should appear on the permanent record card, while the rest (kept in separate files) should be periodically reviewed, and, if appropriate, destroyed. The report recommended that pupil information be classified into three categories and that these be treated differently in terms of access to them.

3) Schools should establish procedures to verify the accuracy of all data maintained in their pupil records.

4) Parents should have full access to, and the right to challenge the accuracy of data on their children. The report also recommended that older pupils should have access to their records, but it could not establish an age criterion for this because of the variability of state laws.

5) No agency or persons other than the parent or school personnel who deal directly with the child concerned should have access to pupil data without parental or pupil permission (except, of course, in the case of a subpoena). The report recommended different procedures for the release of information according to the different categories of data involved.

Clearly I cannot do justice to the complexity of the report in this short time. Those of you who are interested in the detailed recommendations of the report, together with examples of the application of the Guidelines, sample consent forms and the like can obtain a copy by writing to Russell Sage Foundation in New York. At the time of the report's publication, it gained considerable attention in the national press and it was distributed widely with the aid of the American Association of School Administrators, the National Association of Secondary School Principals, the National School Boards Association, the American Personnel and Guidance Association and many interested local organizations. In addition the Foundation received several thousand requests for copies, mostly from people concerned with schools but also a considerable number from colleges, hospitals and even businesses.

The report of the conference, Guidelines for the Collection, Maintenance and Dissemination of Pupil Records, was not intended as the last word on these subtle and complex issues. Rather its purpose was to promote careful discussion and analysis of these problems among all those concerned with schools and especially those in the counseling professions. As part of this discussion, I have been engaged in compiling and analyzing responses to the report from the various groups concerned. Among other things, this effort includes interviews with leading figures in education, counseling, and the social sciences, as well as a systematic study of the impact of Guidelines on schools and school personnel throughout the country. Although data from the latter survey have not as yet been analyzed, a considerable amount of preliminary, and therefore of necessity somewhat impressionistic, information has been gathered already.

Perhaps the major responsibility for pupil record keeping rests upon schoolcounselors and the predominant reaction to Guidelines on their part has been extremely favorable. For a variety of reasons, many counselors have come to recognize the need for systematic and detailed record-keeping policies. First, some have become sensitized by Senator Ervin's hearings, for example to the potential threat to individual privacy posed by our technological and bureaucratic society and have carried these concerns for personal freedom into the school setting. Second, many counselors are concerned about the increasing amount of highly sensitive information they receive if they are engaged in personal counseling of a psychiatric nature as opposed to their more traditional task of vocational guidance. Their concern is legitimate since in most states school counselors are not protected by testimonial privilege. In these circumstances some counselors have gone so far as to advocate that no records should be kept of any interviews.

Few counselors are willing to accept the "no-notes" solution, given the current size of pupil-counselor ratios, but some schools have taken small steps in that direction. They have instituted weekly sessions with a social worker, to which any student can come without appointment and with the understanding that no records will be made of the encounter. That a need for such "no record" sessions is recognized suggests that the knowledge that a counselor keeps records and the ambiguity surrounding access provisions to them can be a serious handicap to his effectiveness with students.

A third reason cited by counselors in support of Guidelines is that it not only provides privacy for students and their families but also affords some protection to counselors themselves. For example, in 1968, the MaineSuperior Court ruled that Bates College had to reveal to the parents of a Connecticut applicant, who was rejected by Bates, the confidential contents of his application for admission. The parents intended to use the confidential statement as evidence in a suit against the secondary school counselor who wrote the report. Since that case, many individual counselors and state guidance associations have been concerned with the problem of college recommendations (Noland, 1971).

In fact, defamation suits against school personnel or anyone else who handles personal dossiers are extremely rare and even when brought are usually not damaging to the faculty member involved. A carefully worded professional opinion rendered in the line of duty by a guidance counselor or principal for example and which is reasonably related to the educative process is not actionable under the law of libel. Nevertheless inaccurate recording of information or its careless release, even if only in idle conversation with another member of the school staff, puts the counselor in an untenable legal position. If

followed carefully, Guidelines is not only an aid to the practical interpretation of the counselor's code of ethics, but it also provides protection against the possibility of a suit for malpractice.

For these reasons many counselors welcomed Guidelines as a useful extention and codification of the knowledge base of their profession and as an aid to ethical practice. However, some serious criticisms have been raised.

The principle that parents should have access to the entire permanent record, for example, presents special problems for the counselor when a child reveals things about his parents which may be considered to be defamatory or even in violation of the law.

While granting that this kind of situation is indeed a difficult one for counselors and certainly deserves further deliberation, we are prepared to take the position that the best course of action for counselors to take in most circumstances (since the counselor-client relationship is not privileged in most states) involves immediate forthright disclosure and discussion of the information with both parents and the child present. Every effort, of course, must be made to obtain in advance the child's permission to embark on this course and, failing that, if a decision is made not to reveal the matter to parents, no entry should be made in the child's continuing record. Irrespective of the good intentions and sophistication of the counselor in the immediate situation, no guarantee can exist that subsequent perusal of the record by less well trained persons, both inside the school and out, will result in benefit to the child or his parents.

Closely related to the preceding argument is the concern expressed by many guidance personnel that teachers and counselors will be less than honest in their evaluations if they think parents might see the

record, a situation which in itself raises interesting ethical questions! If, however, an individual teacher's remarks are too unpleasant to be shown to the parents or the student, then there is surely some doubt as to whether they should become part of a permanent record. Counselors invariably talk of their role as one of helping students to make the right decisions for themselves rather than imposing choices upon them. If such is the case then it seems to make sense that the client should have all the available information (i.e., his record) on which to base a decision.

A third objection to Guidelines has its source among those counselors who perceive the report as constituting a threat to their professional status. Counseling is a relatively young profession: it has not yet gained the same degree of respect from the public as, for example, physical or psychiatric medicine or law. To some counselors the recommendation that parents be allowed to see the actual pupil record (Categories "A" and "B" in Guidelines), rather than simply have the gist of it "interpreted" to them, represents an invasion of their professional territory.

This feeling is generated, in part, as a result of the traditional reluctance of many counselors to reveal IQ scores to parents and, especially, pupils. As Armor (1969) points out, a significant characteristic of all professions is the possession by their members of an area of knowledge and expertise not shared by the general public, which, in fact, makes their services indispensable. Standardized testing has provided such an area of expertise for many counselors and to establish a policy of open access by parents and children to test scores is to threaten erosion of one of the cornerstones on which the profession is based. Our belief, to the contrary, is that this need not be so, since it is the counselor who will be called upon to explain the test and interpret the scores.

A fourth criticism of Guidelines from school personnel might be called the "law and order" reaction. In an attempt to solve the increased violence and drug-taking in schools some people advocate the collection of more rather than less sensitive data and the wide dissemination rather than protection of such information. Our position here, as one might expect, is that the existence of social problems, whatever their nature, does not justify the abrogation of individual rights.

The reactions of some educational researchers to the proposed guidelines have also been critical. They argue, not unnaturally, that the benefits to the community of their research far outweigh any invasion of privacy involved. Hence they object to the requirement that before using student record data parental permission must be obtained and to the suggestion that before collecting data from students, the research agency should obtain parental consent, either from the parents' representives (for example, the Board of Education) or, on extremely sensitive issues, from the parents themselves. On the other hand, other researchers have found themselves in agreement with the thrust of Guidelines, arguing that researchers do not pay enough attention to privacy issues particularly where "captive" institutional subjects are involved. They argue that researchers do not give enough consideration, for example, to the possibilities of collecting data anonymously or else of randomizing responses. Nor do they adequately protect the confidentiality of data both from idle curiosity within the research unit and from external investigation. Some researchers have indeed been working along these lines. The American Council on Education, for example, has developed a link-file system for protecting longitudinal study data on sensitive issues, which involves keeping the link-file in another country where it cannot be subpoenaed. In short, we have found opinions on research ethics as varied as the APA's Committee on Ethical Standards reported in the July issue of the APA Monitor.

Last, but certainly not least, the reaction of parents and students to Guidelines has been uniformly enthusiastic. Presently, many parents and students resent and fear the school as a vast bureaucracy, and it is this impenetrable aspect of the school that symbolizes for many its faults. The exclusion of parents from the life of the school has caused many schools to lose the kind of confidence and trust they need for any educational program to work effectively. The maintenance of "secret" record files, for example, is conducive to distrust. In contrast, the opening of school records to parental inspection provides an opportunity for increasing the feeling of involvement and trust in the school.

The benefits to students and families of an equitable system of record keeping are clear and tangible. Not quite as tangible but equally important are the long-term benefits to the school. Such benefits easily warrant the administrative effort such a record-keeping system imposes.

In summary,the pursuit of an equitable system of school record keeping raises many difficult ethical, legal and educational issues. One attempt to deal with these issues has been reported here, together with the reactions, positive and negative, of various groups towards it. The predominant reaction, so far, to Guidelines has been one of warm approval. However, many people have argued that Guidelines will be of little avail without some kind of enforcement machinery. They cite the example of New York State where parents gained the right to inspect their children's records in 1961*, but where, until very recently, it was impossible in most cases for parents to exercise that right because of school opposition.

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*Van Allen v. McCleary 27 Misc. 2d 81,211 NYS 2d 501 (Sup. Ct. Nassau Co., 1961).

Due process has been the traditional means of safeguarding both privacy and rights to information, but it has been suggested that the increasing amount of data collected by all institutions calls for a new mechanism. In the same way that institutions are subject to independent financial audit, it may be necessary in the future to subject them to unannounced random sample checking of their record-keeping activities.

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CATEGORIES

"A" - Includes official administrative records that constitute the minimum personal data necessary for operation of the educational system. Specifically this means identifying data (including, names and address of parents or guardian), birth date, academic work completed, level of achievement (grades, standardized achievement test scores), and attendance data.

"B" - Includes verified information of clear importance, but not absolutely necessary to the school, over time, in helping the child or in protecting others. Specifically, scores on standardized intelligence and aptitude tests, interest inventory results, health data, family background information, systematically gathered teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns are included in this category.

"C" - Includes potentially useful information but not yet verified or clearly needed beyond the immediate present; for example, legal or clinical findings including certain personality test results, and unevaluated reports of teachers, counselors and others which may be needed in ongoing investigations and disciplinary or counseling actions.